

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
THE LICENSE OF
Kimberly A. Kirsh
Applicant

ORDER ADOPTING STIPULATION
97 MED 188
LS9707312MED

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Kimberly A. Kirsh
1821 Hopkins Ave.
Eau Claire, WI 54701

Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. On or about February 25, 1997, Kimberly A. Kirsh (1821 Hopkins Avenue, Eau Claire, WI 54701; D.O.B. 09/10/70) filed an application for certification in Wisconsin as a respiratory care practitioner.

2. From October 1995 until at least February 25, 1997, Ms. Kirsh practiced Respiratory care as an employee of Apple River Hospital in Amery, Wisconsin.

3. On June 5, 1997, the Medical Examining Board entered an Order denying Ms. Kirsh's application for certification, based upon her practice in Wisconsin without certification. Ms. Kirsh has timely requested a hearing on this Order.

4. In resolution of this matter, Ms. Kirsh consents to entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this matter pursuant to sec. 448.04(1)(i), Stats.
2. By the conduct described above, Kimberly A. Kirsh violated sec. 448.03(1m), Wis. Stats.

ORDER

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the stipulation of the parties is approved.
2. IT IS FURTHER ORDERED that the application of Kimberly A. Kirsh for certification as a respiratory care practitioner is granted, conditioned upon the following:
 - a. Within ten (10) months of the date of this Order, Ms. Kirsh shall complete not fewer than 12 hours of continuing education in the area of ethics for health care providers. These continuing education credits shall be approved in advance by the Board; and
 - b. The Board may, at its option, require Ms. Kirsh to appear before the Board following completion of the continuing education referred to above to answer any questions that it may have concerning this matter.
3. If Ms. Kirsh fails to successfully and timely complete all requirements set forth in paragraph 2, above, the respondent's license shall be SUSPENDED without further notice or hearing until such time as the Board accepts documentation of respondent's completion of the education requirements set forth in this Order
4. Ms. Kirsh is REPRIMANDED for practicing Respiratory care in Wisconsin without certification.

MEDICAL EXAMINING BOARD

By: *William Henry Lee* *9-31-97*
A Member of the Board Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
THE LICENSE OF
Kimberly A. Kirsh
Applicant

STIPULATION
97 MED 188

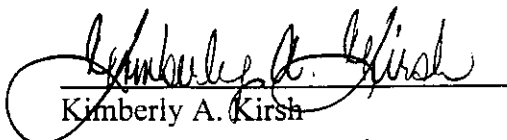
It is hereby stipulated between Kimberly A. Kirsh personally on her own behalf: and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

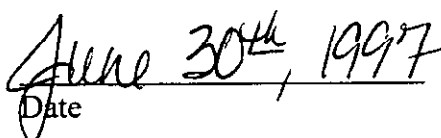
1. This Stipulation is entered into in resolution of Ms. Kirsh's request for a hearing on the Denial of Ms. Kirsh's application for certification as a Respiratory care practitioner. This Stipulation and Order shall be presented directly to the Medical Examining Board without further proceedings.
2. Ms. Kirsh understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights to a hearing on the Board's denial of certification, including the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Ms. Kirsh is aware of her right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.
4. Ms. Kirsh agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Applicant waives all rights to any appeal of the Board's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not

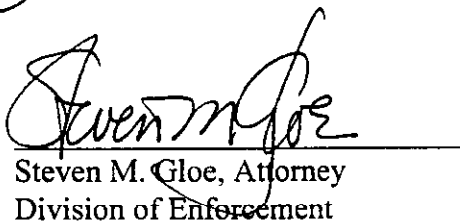
accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

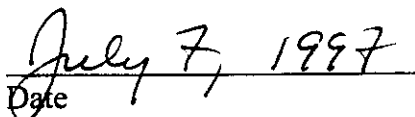
6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Medical Examining Board assigned as an advisor in this investigation may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Ms. Kirsh in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.


Kimberly A. Kirsh


Date


Steven M. Gloe, Attorney
Division of Enforcement


Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE MEDICAL EXAMINING BOARD

In the Matter of the License of

Kimberly A. Kirsh,

AFFIDAVIT OF MAILING

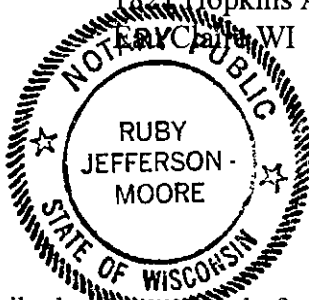
Applicant.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On August 6, 1997, I served the Order Adopting Stipulation dated July 31, 1997 upon the Applicant Kimberly A. Kirsh by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Applicant and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 157 417.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Applicant's last-known address and is:

Kimberly A. Kirsh
1821 Hopkins Avenue
Eau Claire, WI 54701



Subscribed and sworn to before me

this 6th day of August, 1997.

Ruby Jefferson-Moore
Notary Public, State of Wisconsin
My commission is permanent.

Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

August 6, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)